

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

ERNEST CEPHAS,

Petitioner,

v.

WARDEN, Lebanon Correctional Institution,

Respondent.

Case No. 1:23cv068

Judge Michael R. Barrett

ORDER

This matter is before the Court on the Report and Recommendations (“R&R”) filed by the Magistrate Judge on October 30, 2023. (Doc. 8). After a thorough analysis of 14 grounds for relief, Magistrate Judge Merz recommends that Ernest Cephas’ Petition for a Writ of Habeas Corpus be dismissed with prejudice and that a certificate of appealability be denied.

Proper notice was given to Petitioner (who proceeds *pro se*) under 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), including notice that he may forfeit rights on appeal if he failed to file objections to the R&R in a timely manner.¹ *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); see *Berkshire v. Dahl*, 928 F.3d 520, 530 (6th Cir. 2019). No objections to the R&R (Doc. 8) were filed and the time to do so (extended at Petitioner’s request)² has passed.

¹ In a written Order (Doc. 9) entered November 17, 2023, the undersigned *sua sponte* directed the Clerk to re-serve the October 30, 2023 R&R by mailing it to Petitioner at Allen Correctional Institution in Lima, Ohio. Petitioner’s objections were due, then, no later than December 4, 2023. (Id. PAGEID 1857; see Doc. 11 PAGEID 1863 & n.1).

² Petitioner filed a Motion for Enlargement of Time, asking the Court “to extend by thirty-five days his time to respond” to the October 30, 2023 R&R. (Doc. 10 PAGEID 1858). The Magistrate Judge granted Petitioner’s request (see Doc. 11), extending his time to object (from December 4, 2023) to January 8, 2024.

The R&R (Doc. 8) of the Magistrate Judge is hereby **ACCEPTED** and **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, the Petition (Doc. 1) is **DISMISSED** in its entirety **with prejudice**. Because reasonable jurists would not disagree with this conclusion, Petitioner is **DENIED** a certificate of appealability. The Court **CERTIFIES** that any appeal to the United States Court of Appeals for the Sixth Circuit would be objectively frivolous and, consequently, Petitioner is **DENIED** leave to appeal in forma pauperis.

IT IS SO ORDERED.

s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court